TOBACCO BILL/Daycare Mandate

SUBJECT: **National Tobacco Policy and Youth Smoking Reduction Act . . . S. 1415. McCain motion to table the Kerry modified amendment No. 2689 to the Daschle (for Durbin) amendment No. 2437, as amended, to the instructions (Gramm amendment No. 2436) to the Gramm motion to recommit the Commerce Committee modified substitute amendment No. 2420.**

ACTION: MOTION TO TABLE FAILED, 33-66

SYNOPSIS: The "Commerce-2" committee substitute amendment (see NOTE in vote No. 142) to S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act, will raise up to $265.0 billion over 10 years and up to $885.6 billion over 25 years from tobacco company "payments" (assessments) and from "look-back" penalties that will be imposed on tobacco companies if they fail to reduce underage use of tobacco products. Most of the money will come from the required payments ($755.67 billion over 25 years). Additional sums will be raised from other fines and penalties on tobacco companies, and the required payments will be higher if volume reduction targets on tobacco use are not met. The tobacco companies will be required to pass on the entire cost of the payments to their consumers, who are primarily low-income Americans. By Joint Tax Committee (JTC) estimates, the price of a pack of cigarettes that costs $1.98 now will rise to $4.84 by 2007. The amendment will require the "net" amount raised, as estimated by the Treasury Department, to be placed in a new tobacco trust fund. (The net amount will be equal to the total amount collected minus any reductions in other Federal revenue collections that will occur as a result of increasing tobacco prices. For instance, income tax collections will decline because there will be less taxable income in the economy). The JTC estimates that the amendment will raise up to $232.4 billion over 9 years, but only $131.8 billion net. Extending the JTC's assumptions through 25 years, a total of $514.2 billion net will be collected. The amendment will require all of that money to be spent; 56 percent of it will be direct (mandatory) spending. The Federal Government will give States 40 percent of the funds and will spend 60 percent. Medicare will not get any of the funding in the first 10 years unless actual revenues are higher than estimated in this amendment (in contrast, the Senate-passed budget resolution required any Federal share of funds from tobacco legislation

(See other side)

YEAS (33)			NAYS (66)			NOT VOTING (1)	
Republicans (33 or 61%)		**Democrats (0 or 0%)**	**Republicans (21 or 39%)**	**Democrats (45 or 100%)**		**Republicans (1)**	**Democrats (0)**
Allard	Kempthorne		Abraham	Akaka	Johnson	Specter-3	
Ashcroft	Kyl		Bennett	Baucus	Kennedy		
Brownback	Lott		Bond	Biden	Kerrey		
Coats	Lugar		Burns	Bingaman	Kerry		
Cochran	Mack		Campbell	Boxer	Kohl		
Craig	McConnell		Chafee	Breaux	Landrieu		
DeWine	Nickles		Collins	Bryan	Lautenberg		
Enzi	Roberts		Coverdell	Bumpers	Leahy		
Frist	Roth		D'Amato	Byrd	Levin		
Gorton	Santorum		Domenici	Cleland	Lieberman		
Gramm	Sessions		Faircloth	Conrad	Mikulski		
Grams	Smith, Bob		Grassley	Daschle	Moseley-Braun		
Gregg	Stevens		Hatch	Dodd	Moynihan		
Hagel	Thomas		Hutchison	Dorgan	Murray		
Helms	Thompson		Jeffords	Durbin	Reed		
Hutchinson	Thurmond		McCain	Feingold	Reid		
Inhofe			Murkowski	Feinstein	Robb		
			Shelby	Ford	Rockefeller		
			Smith, Gordon	Glenn	Sarbanes		
			Snowe	Graham	Torricelli		
			Warner	Harkin	Wellstone		
				Hollings	Wyden		
				Inouye			

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

to be used to strengthen Medicare; see vote No. 84).

The Gramm motion to recommit with instructions would direct the Commerce Committee to report the bill back with the inclusion of the amendments already agreed to and the Gramm amendment No. 2437. The Gramm amendment would adopt the Gregg/Leahy amendment (see NOTE below) and would eliminate the marriage penalty in the tax code on couples earning less than $50,000 per year. (Under current law, all married people are taxed at a higher rate than they would be if they were single and their income were divided between them). The tax relief would be structured so that married couples that received it would not consequently lose Earned Income Credit (EIC) eligibility.

The Durbin amendment, as amended, would cap the look-back penalties at $7.7 billion annually and would shift the burden of those penalties on to those companies that have brands that do not meet the youth smoking reduction targets (see vote No. 149 for details). As amended by a Craig/Coverdell amendment, it would also fund anti-drug programs (see vote No. 151). As amended by a Gramm modified amendment, it would phase-in marriage-penalty relief over 10 years for married tax filers with incomes under $50,000, and it would provide immediate 100 percent deductibility of health care costs for self-employed taxpayers (see vote No. 154).

The Kerry amendment to the Durbin amendment, as amended, would change the section of the bill that restricts how States may spend 50 percent of the revenues they receive from the tobacco trust fund to mandate that States must spend 50 percent of that 50 percent on the Child Care and Development Block Grant (CCDBG) Program (it is also called the Child Care and Development Fund, or CCDF). In total, the amendment would increase funding for the program by approximately $2 billion per year. (Currently, approximately $3 billion in Federal discretionary, mandatory, and matching funds are provided. The matching requirement for a State is equal to its Medicaid matching requirement, which is generally at or near 50 percent. CCDF funding percentages are as follows: Federal discretionary (no match), 22 percent; Federal mandatory, 28 percent; Federal matching, 17 percent; State matching, 13 percent; and State maintenance of effort, 21 percent. The program is for low-income families (at or below 85 percent of a State's median income). Parents of eligible children must be given the choice of enrolling their children with providers that have grants or contracts with the State program, or of receiving certificates or vouchers to enroll with the providers of their choice. The underlying Commerce-2 amendment would decrease the State matching requirement to 20 percent and would eliminate the means-testing requirement.)

NOTE: After the vote, the amendment was modified to restore the current-law matching and means-testing requirements, and was then adopted by voice vote.

Two Gregg/Leahy amendments were pending at the time of the vote (see vote No. 145).

Those favoring the motion to table contended:

The Kerry amendment further exposes this bill as just another huge tax-and-spend boondoggle from Congress. Our colleagues are stretching their arguments pretty thin to say that the best way to stop teenage smoking is to increase funding for daycare for pre-school children. This amendment has nothing whatsoever to do with teenagers smoking. Toddlers in diapers are not skulking behind convenience stores, puffing on cigarettes. Our colleagues are just using the tobacco bill as a convenient pot of money to fund their favorite daycare program. Liberal Democrats and President Clinton favor the CCDF over other Federal programs that can be used for child care, such as the Title XX Social Services Block Grant, because more strings are attached to the CCDF. Thus, they have proposed cutting Title XX this year and they are trying to increase the CCDF with tobacco funds with this amendment. The States vehemently oppose the Kerry amendment. The National Governors Association, in a bipartisan letter, has announced that it "strongly opposes the Kerry amendment which dictates state funding choices" and that adopting the amendment would "make it impossible" for Governors to support this legislation. We are not surprised that the States are in such strong opposition to the amendment; last year, the CCDF was such a low priority for them that they only used 72 percent of the available funding. Some legislative drafter somewhere is obviously aware of that "problem," because slipped into the Commerce-2 amendment are two little provisions to decrease the State matching requirement and to eliminate the means-testing requirement. Children need quality care, whether from parents, home daycares, church daycares, or institutional daycares, and we agree that the CCDF deserves great praise for the flexibility it gives parents, but States have other priorities as well and Congress should not dictate to the States how much they must spend on particular priorities. For instance, we know that Delaware is considering using its tobacco funds to expand health insurance for low-income families. If it is forced by the Kerry amendment to spend more than it needs to on child care, it will have less money available to give insurance to families that do not have any health insurance. This bill already will allow the States to use literally every penny of their funds on daycare if they so desire; we do not think that doing so would have any effect on teen smoking, but we think that the States should be allowed to spend their money as they determine best. The Kerry amendment, in the final analysis, is just yet another Washington-knows-best mandate. We urge its rejection.

Those opposing the motion to table contended:

The Kerry amendment would properly focus this bill on reducing teenage smoking by requiring the States to spend at least one-fourth of the funds they receive from this bill on early childhood education programs and afterschool education programs. Recent research has found that brain development in the first 3 years of life is critical to laying the foundation for positive self esteem, effective decision-making, and the ability to resist destructive habits such as smoking. If we want children to grow up healthy and tobacco-free, we must ensure that they receive the stimulation and nurturing they need early. If we wait until adolescence to help them develop the will and the skill to say “no” to smoking, we will, in many cases, find that our efforts will be too little and too late. Once kids are older, we must continue the help by giving them constructive after-school activities. Too many bored, latch-key children end up experimenting with drugs and tobacco because they have nothing to do after school.

In prior debates, when we proposed increased child care funding, it was suggested that we were attempting to have the Federal Government take over the raising of children. In this case that charge cannot be made because the CCDF gives parents a large role in deciding the type of care their children will receive. They can put their kids into large daycare centers, or they can put them in home daycares, religious daycares, or in the care of relatives. As this bill is currently drafted, the States will be given 40 percent of all the money. They will be allowed to spend half of that money as they wish, and the other half they will be required to spend on a number of tobacco-related programs, including child care. How much each State spends on the listed purposes is up to it. A State, if it wished, could refuse to spend any of the money on child care. We do not think any State should have that option. We think the best purpose the State funding in this bill could be put toward is child care. We therefore strongly support the Kerry amendment.